

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-000113

04/22/2010

HON. ANDREW G. KLEIN

CLERK OF THE COURT

C. Vila

Deputy

IN RE THE MARRIAGE OF
SERGIO RODRIGUEZ

STEPHANIE PRECIADO

AND

MICHELLE RODRIGUEZ

JEANNE M ZINGSHEIM

ALTERNATIVE DISPUTE
RESOLUTION - CCC

MINUTE ENTRY

Courtroom CCB 604

9:32 a.m. This is the time set for Resolution Management Conference with regard to Petitioner's Petition for Dissolution of Marriage. Petitioner/Father, Sergio Rodriguez, is present with counsel, Stephanie Preciado. Respondent/Mother, Michelle Rodriguez, appears telephonically with counsel, Jeanne M. Zingsheim who also appears telephonically.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Sergio Rodriguez and Michelle Rodriguez are sworn.

Discussion is held with the Court.

The Court is advised the parties have reached an agreement on some of the issues, which can be generally summarized as follows:

- On a permanent basis, the parties shall share joint legal custody of the child, Alessandra M. Rodriguez (DOB: 2/5/2006), with Mother designated as primary residential parent. If the

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parties, after conferring jointly, are unable to agree on any major life decision, then Mother shall have final decision-making authority on that issue. However, Mother shall first confer in good faith with Father before making a final decision regarding this issue.

- Father shall have parenting time on alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
- The parties shall determine a parenting schedule with regard to holidays, school breaks and vacations.
- On a temporary basis, Father shall continue to pay all Chapter 13 bankruptcy and IRS debts.
- On a temporary basis, Father shall continue to pay directly to Mother the amount of \$800 per month as and for child support.

The Court accepts the parties' agreement having found that the parties knowingly, intelligently and voluntarily entered into said agreement and that it is in the best interests of the parties' minor children and is equitable.

THE COURT FINDS that the parties have entered into a binding Rule 69 agreement, which will be enforceable by the Court consistent with the record made by counsel.

IT IS ORDERED approving and adopting the agreements of the parties pursuant to Rule 69, Arizona Rules of Family Law Procedure.

IT IS FURTHER ORDERED:

1. The parties understand that joint legal custody does not necessarily mean equal parenting time.
2. Each party is entitled to full and unrestricted access to all medical, dental, prescription, and health related records of the child and may secure information from and consult with all health care professionals providing care for the minor child. Each party shall keep the other party informed of the names, addresses, and telephone numbers of all such healthcare providers.
3. Each party is entitled to equal, full, and unrestricted access to all education-related records and personnel, and have the right to be fully informed about and meaningfully participate in all educational decisions.

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4. In the event of any emergency or urgent circumstance involving the child, the party then having physical custody of the child shall inform the other party of the nature of the emergency or urgent circumstance as soon as is reasonably possible.
5. Each party shall have the right to attend and participate in school conferences and activities, extra-curricular activities, and any other similar event in which parents are routinely invited or permitted to attend, even if said event is during the other party's parenting time.
6. Unless restricted by Court order, each party shall keep the other informed of his/her home address, home telephone number, employer and address, work telephone number, and if applicable, cellular telephone number and e-mail address. If any of this information changes, the other party shall be informed of the change forty-eight hours in advance thereof, or as soon as possible afterward if advance notice is not possible.
7. The parties shall try to jointly decide major life decisions concerning their child. Major life decisions include, without limitation: the selection of schools; educational/special education plans and needs; the selection of healthcare providers; dental and medical plans and needs; medical treatment; mental health plans, needs, and treatment; and, at times, religious training. In making major life decisions concerning the child, each party has an affirmative obligation to (1) confer in good faith with the other party, (2) give equal consideration to the other party's perspective, and (3) work cooperatively with the other party. If the parties decide to seek advice from healthcare professionals or educators, both parties shall be provided with and entitled to such advice before making their decision. If the parties, after conferring jointly, are unable to agree on any major life decision, then Mother shall have final decision-making authority on that issue. However, Mother shall first confer in good faith with Father before making a final decision regarding this issue.
8. Neither party shall make derogatory, disparaging, or similarly negative comments about the other party in the presence of the minor child. Neither party shall discuss family law legal proceedings with the child or use the child as a messenger for parenting issues. Each parent shall encourage love and respect between the child and the other parent, and neither shall do anything which may undermine the child's relationship with the other parent.
9. Neither party shall permit the child to be subjected to corporal punishment of any kind including, but not limited to, spanking, hitting, or striking with an instrument, and/or hitting or striking with a closed fist or open hand. Neither party shall permit the child to be punished by use of anything that could cause injury, bruising, or significant pain.

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10. Neither party shall subject the minor children to any environment that involves domestic violence. Domestic violence is defined by A.R.S. §13-3601(A).
11. Neither party shall subject the minor child to any acts of a volatile or abusive nature that may disrupt their day-to-day childhood peacefulness, which means no volatile arguments in front of or within earshot of the minor child.
12. Neither party shall delegate parenting or discipline responsibilities for the minor child to any other person.
13. Both parents shall be listed as emergency contacts on any forms or lists that require such contact information, such as, but not limited to, educational, activity, childcare, and/or medical provider(s).
14. If either parent chooses to have the child travel out of his/her home state, the non-participating parent shall be informed at least three days in advance of all pertinent information (i.e., the itinerary, address, phone numbers, etc.) unless otherwise restricted by previous Court order.
15. Both parents shall consult and seek agreement with one another regarding any extra curricular activity which may affect the other parent's access.
16. Both parents shall exert their best efforts to work cooperatively in future plans consistent with the child's best interests and to amicably resolve such issues as they arise.
17. Each parent may take the child to a church or place of worship of his/her choice during the time that the child is in his/her care.
18. Each party shall allow the other party the care provider of choice for the child if the party who has custody of the child is unable to care for the child for any duration of time. However, if the duration is for more than a twenty-four (24) hour period, then the parent who is in need of child care shall first contact the other parent prior to making other arrangements for such child care to determine if that parent can or is able to care for the child during this absence of the custodial parent.
19. If either parent intends to relocate outside the state or more than 100 miles within the state, they will provide at least 60 days advance written notice to the other parent and adhere to the provisions set forth in A.R.S. §25-408.

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20. The parents agree that if either parent moves outside of the state or more than 100 miles within the state and returns at a later date, they will revert to using their most recent parenting-time arrangements prior to the move until other arrangements can be negotiated.
21. If either parent is unable to honor/meet their parent-time responsibilities, that parent will notify the other parent as soon as possible.
22. During their respective parenting times, each parent shall be responsible for providing or arranging all transportation needs of the child.
23. Each party shall allow the other party reasonable telephone access with the child while the child is in his/her physical custody. Such telephone access shall be before the child's ordinary bedtime and may be initiated by either party or the child. The party having physical custody of the child at the time of the telephone contact shall not listen in, record, or otherwise interfere with said contact.
24. Each party has the right and responsibility to make, during the time that party has physical custody, routine daily decisions regarding the child's care consistent with the major decisions made by the parties as joint legal custodians.
25. If either party disputes or seeks a change in either legal custody or parenting time, that party shall first attempt to resolve the dispute or change through private mediation or mediation provided by Conciliation Services. No petition to modify custody or parenting time shall be considered absent an affirmative statement by the party seeking modification that mediation has occurred and was unsuccessful, except in cases where there is a genuine and imminent threat to the health, safety, or welfare of the child.
26. At least every two years from the entry of this order, the parties shall review the terms of this parenting plan for the purpose of amending said plan in accordance with the needs of the child. If the parties cannot agree after making a good faith effort to come to an agreement regarding amendments to said plan, the parties shall mediate the dispute prior to initiating a proceeding with the Court.
27. The parties may at any time change or add to any of their time-share arrangements, including holiday and summer vacation, by mutual agreement without seeking Court approval. It is the Court's intent that the parties continue to allow flexibility for the child to go between houses to visit the other parent.

Discussion continues with the Court.

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No hearing will be set regarding Mother's April 20, 2010 Petition for Temporary Orders.

On agreement of the parties,

IT IS ORDERED that Mother shall return the 2008 Chrysler 300 to Father by June 1, 2010. At that time, Mother shall have no further obligation to make payments related to that vehicle.

IT IS FURTHER ORDERED referring this matter to Alternative Dispute Resolution (ADR) and affirming the Settlement Conference set for **August 4, 2010 at 9:00 a.m.** before Commissioner Casey Newcomb. The ADR Office shall notify the parties by way of separate minute entry. Counsel and/or parties should not contact ADR directly.

TRIAL SETTING

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 30 days prior to trial.
2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed at least 15 days prior to trial.
3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to trial to conduct settlement discussions, prepare a Joint Pre-trial Statement, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.
4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

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IT IS ORDERED setting Trial to the Court on **August 20, 2010 at 10:00 a.m.** (2 hours allowed) before:

The Hon. Andrew G. Klein
Maricopa County Superior Court
Central Court Building
201 W. Jefferson
Courtroom 604
Phoenix, AZ 85003

Failure of a party to appear may result in the Court allowing the party who does appear to proceed by default. Failure of both parties to appear may result in this action being dismissed.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least 30 days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

IT IS ORDERED that the parties shall file and provide this Division with a copy of a Joint Pretrial Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days prior to trial.

IT IS FURTHER ORDERED that the Joint Pretrial Statement shall include:

1. A current Affidavit of Financial Circumstances completed by each party.
2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.
3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. §25-351 et seq.

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5. If there are disputed issues regarding division of property, a current and detailed Inventory of Property and Debts, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the court prefers a one-page statement of all property except personal property items valued at less than \$500 each.

6. If spousal maintenance is requested and disputed, each party shall state the amount and duration of spousal maintenance requested.

7. If division of debts is an issue, the parties shall prepare and exchange a list of all debts, including creditor's name, amount of debt, monthly payment amount, the reason the debt was incurred, who should pay the debt, and all of the information required by A.R.S. §25-318(H).

8. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), Arizona Rules of Family Law Procedure.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of trial, or to timely present the Joint Pretrial Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D), Arizona Rules of Family Law Procedure, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

IT IS FURTHER ORDERED that no less than five (5) business days prior to Trial, the parties and, if represented, counsel shall exchange and provide to the clerk of this division any exhibits they shall seek to admit into evidence. All exhibits must be clearly identified, separated by a COLORED sheet and hand delivered to this Division no later than five (5) business days prior to hearing. All exhibits shall be hand-delivered directly to court staff at this Division's suite. No Trial exhibits shall be presented for marking that have not been previously exchanged. No duplicate exhibits shall be presented for marking.

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pretrial Statement which exhibits they have agreed will be admissible at trial as well as any specific objections that will be made to any exhibit if offered at trial which is not agreed to be admitted. Reserving all objections to the time of trial will not be permitted. At the time of trial all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pretrial Statement shall be summarily admitted.

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IT IS FURTHER ORDERED that any party filing a request for findings of fact and conclusions of law pursuant to Rule 82, Arizona Rules of Family Law Procedure, shall submit proposed findings of fact and conclusions of law to this Division no later than 20 days prior to trial. Any controverting findings of fact and conclusions of law proposed by the adverse party shall then be submitted no later than 10 days prior to trial.

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure. Should the parties reach a full agreement prior to the date of the hearing, the Court will consider a motion to vacate the hearing **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT.**

Continuances, postponements and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division five (5) business days before the scheduled hearing.

10:00 a.m. Matter concludes.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/S/ HON. ANDREW G. KLEIN

SUPERIOR COURT JUDGE
HON. ANDREW G. KLEIN

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.